



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 29, 1996

Mr. Martin O. Adams
School Attorney
Fort Stockton Independent School District
101 W. Division
Fort Stockton, Texas 79735

OR96-1966

Dear Mr. Adams:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101527.

On July 31, 1996, the Fort Stockton Independent School District (the "district") received an open records request for "[a]ll [district] employee names, addresses, phone numbers, personnel directory, if available, for mailing purposed for the marketing of Tax-Sheltered Annuities." You state that the district does have a personnel directory that is given to the teachers to be used in-house. You ask whether the requested information may be excepted from required public disclosure under section 552.117 of the Government Code.

Section 552.117(1) of the Government Code requires that the district withhold its employees' and former employees' home addresses, telephone numbers, and social security numbers, and information that reveals whether the employee or former employee has family members, except as otherwise provided by section 552.024. Section 552.024(b)(1) provides that each employee shall make the determination of whether to allow access to this information "not later than the 14th day after the date on which . . . the employee begins employment with the governmental body."

You inform us that all teachers "are on one year contracts" and state that "[a]ll teachers begin their employment on August 12, 1996, for the 1996-1997 school year."¹ Thus, with respect to new teachers and other new employees, the request was received prior to the date on which the new employees were required, under section 552.024(b)(1), to make the determination of whether to allow access to this information. In Open Records Decision No. 530 (1990) at 4, this office held that the employees and former employees of a

¹You also state that "[f]orms are being sent to each school employee" for them to elect whether to allow public access to this information. In a telephone conversation with this office, you stated that the district has not distributed these forms to district employees for several years.

governmental body must have elected to keep this information confidential in compliance with section 552.024 prior to receipt of the open records request. However, Open Records Decision No. 530 (1990) expressly did "not address the situation arising with new employees . . . acting within the 14 day period specified in [section 552.024(b)(1)]." *Id.*

Section 552.001(b) provides that the Open Records Act "shall be liberally construed in favor of granting a request for information." In accordance with this policy, we cannot conclude that the district may withhold the home addresses, telephone numbers, and information that reveals whether the employee has family members for teachers and other employees who have contracted with the district in years past, yet have not made the election to keep that information confidential pursuant to section 552.024. Those employees would have had an opportunity to make the election prior to this open records request. (Of course, for those teachers and other employees who *have* made the election to keep this information confidential, the district must withhold this information pursuant to section 552.117.)

As for those teachers and other employees who started employment with the district *for the first time* on August 12, 1996, we conclude that the district must withhold the home addresses, telephone numbers, and information that reveals whether the employee has family members, provided that those employees have elected to keep that information confidential within 14 days of the date they began employment.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Todd Reese
Assistant Attorney General
Open Records Division

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²You also ask whether the in-house personnel directory can contain an employee's address, phone number, and family information if the employee has made the election to withhold this information from the public. In Open Records Decision No. 468 (1987) at 3, this office stated: "An employee of an agency whose job requires or permits certain access to records has not been granted access to those records as a member of the public." Thus, we do not believe that the distribution of the personnel directory to district employees, in their capacity as employees, is a release to the public. As it is not a release to the public, it does not violate sections 552.024 and 552.117.

Ref.: ID# 101527

Enclosures: Submitted documents

cc: Ms. Lydia Mullen
Mullen & Associates
4335 Piedras Drive West
San Antonio, Texas 78228
(w/o enclosures)